



General Assembly

Sixty-fourth session

Official Records

Distr.: General
25 March 2010
English
Original: French

Third Committee

Summary record of the 47th meeting

Held at Headquarters, New York, on Tuesday, 24 November 2009, at 10 a.m.

Chairperson: Mr. Penke (Latvia)

Contents

Agenda item 65: Promotion and protection of the rights of children (*continued*)

(a) Promotion and protection of the rights of children (*continued*)

Agenda item 66: Indigenous issues (*continued*)

Agenda item 67: Elimination of racism, racial discrimination, xenophobia and related intolerance (*continued*)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*)

Agenda item 69: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

Agenda item 118: Revitalization of the work of the General Assembly (*continued*)

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The meeting was called to order at 10.20 a.m.

Agenda item 65: Promotion and protection of the rights of children (continued)

(a) Promotion and protection of the rights of children (continued) (A/C.3/64/L.20/Rev.1)

Draft resolution A/C.3/64/L.20/Rev.1: The girl child

1. **The Chairperson** said that the draft resolution contained no programme budget implications.

2. **Mr. Nghifitikeko** (Namibia), speaking on behalf of the Southern African Development Community, introduced the draft resolution and said that Algeria, Argentina, Austria, Belgium, Benin, Burundi, Canada, China, Costa Rica, the Czech Republic, France, Ghana, Hungary, Ireland, Italy, Japan, Kazakhstan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Romania, Slovakia, Spain, Switzerland, Togo, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay had become sponsors of the draft resolution. Noting that the draft resolution addressed major challenges faced by the girl child, he invited States and the international community to take appropriate action to prevent all forms of discrimination and violence against the girl child.

3. Paragraph 19 of the draft resolution had been revised as follows: after the words "forced labour", the words "and child and" should be deleted, while the words "as well as marriage under legal age" should be inserted after the words "forced marriage".

4. He thanked all the sponsors for their efforts to come up with a consensus document that would help to ensure that girls had access to quality education, lived in dignity, were free from fear and enjoyed good health. He called upon those Member States that had not yet done so to sponsor the draft resolution in order to strengthen the promotion and protection of the rights of girls throughout the world.

5. **Mr. Khane** (Secretary of the Committee) said that the following countries had become sponsors of the draft resolution: Albania, Andorra, Antigua and Barbuda, Australia, Azerbaijan, Barbados, Belgium, Belize, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Colombia, the Congo, Croatia, Cuba, Cyprus, Denmark, the Dominican Republic, Equatorial Guinea,

Estonia, Finland, the Gambia, Georgia, Germany, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Iceland, Israel, Jamaica, Latvia, Liberia, Liechtenstein, Lithuania, Malta, Mexico, Monaco, Montenegro, Nicaragua, Peru, the Philippines, Poland, the Republic of Moldova, San Marino, Serbia, Slovenia, Suriname, Sweden, Turkey and the former Yugoslav Republic of Macedonia.

6. **Mr. Javaheri** (Sweden), speaking also on behalf of Switzerland, said that, while Sweden and Switzerland had joined the consensus on that important draft resolution, they believed that, with respect to the oral revision to paragraph 19, the words "as well as marriage under legal age" must be construed within the meaning of the Convention on the Rights of the Child.

7. *Draft resolution A/C.3/64/L.20/Rev.1 was adopted without a vote.*

8. **Ms. Sapag** (Chile) said that the draft resolution constituted a major step forward in the promotion of the rights of the girl child. Her country looked forward to the report that the Secretary-General had been requested to submit on the issue of forced and child marriage and hoped that it would contribute to the effective implementation of the Convention on the Rights of the Child. Her delegation endorsed the Swedish delegation's comments on the revision to paragraph 19 and understood that it was meant to address the concerns of countries whose legislation provided for the marriage of children.

9. **The Chairperson** suggested that the Committee should take note, in accordance with General Assembly decision 55/488, of the report of the Secretary-General on the girl child (A/64/315) and the note of the Secretariat on the appointment of the Special Representative of the Secretary-General on violence against children (A/64/182).

10. *It was so decided.*

Agenda item 66: Indigenous issues (continued)

11. **The Chairperson** suggested that the Committee should take note, in accordance with decision 55/488 of the General Assembly, of the report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, contained in document A/64/338.

12. *It was so decided.*

Agenda item 67: Elimination of racism, racial discrimination, xenophobia and related intolerance (continued)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (continued) (A/C.3/64/L.54/Rev.1)

Draft resolution A/C.3/64/L.54/Rev.1: Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

13. **Mr. Khane** (Secretary of the Committee) read out a statement, in accordance with rule 153 of the rules of procedure of the General Assembly, on the programme budget implications of paragraphs 13, 18, 22 and 49 of the draft resolution. A total provision of US\$ 141,063,400 (before recosting) was proposed under section 23, Human rights, of the proposed programme budget for the biennium 2010-2011. The requirements to implement the activities called for in paragraphs 18, 22 and 49 of the draft resolution would be met within those provisions. Extrabudgetary resources would be utilized, if necessary, to implement some of the activities falling under the Office of the High Commissioner for Human Rights. It was indicated, in the report of the Secretary-General on the revised estimates resulting from resolutions and decisions adopted by the Human Rights Council (A/64/353), that the activities related to the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action were considered of a "perennial nature", and as such provisions had already been made for them also in the proposed programme budget for the biennium 2010-2011 under sections 2, General Assembly and Economic and Social Council affairs and conference management and 28E, Administration, Geneva, for conference servicing requirements.

14. With regard to paragraph 13, since the modalities of the one-day plenary event were to be finalized during the sixty-fifth session of the General Assembly, the programme budget implications of the event were not known and the General Assembly would be informed as soon as possible, according to established procedures. Accordingly, should the Third Committee adopt the draft resolution, there would be no requirement for additional provisions under the

proposed programme budget for the biennium 2010-2011.

15. With regard also to paragraphs 18, 22 and 49 of the draft resolution, attention was drawn to the provisions of section VI of General Assembly resolution 45/248 B and subsequent resolutions, the most recent of which was resolution 62/236, in which the Assembly had reaffirmed that the Fifth Committee was the appropriate Main Committee entrusted with responsibilities for administrative and budgetary matters and had reaffirmed the role of the Advisory Committee on Administrative and Budgetary Questions.

16. **Ms. Adhelrahman** (Sudan), speaking on behalf of the Group of 77 and China, said that the draft resolution called on the Human Rights Council to provide guidance and leadership in the follow-up to the implementation of the decisions of the Durban Review Conference and Programme of Action and requested that the implementation of the outcome of the Durban Review Conference should be undertaken in the same framework and by the same mechanisms as the outcome of the Durban Declaration and Programme of Action. As 2011 would mark the tenth anniversary of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Group of 77 and China requested that a plenary meeting should be convened to commemorate that anniversary.

17. The Group of 77 and China urged all Member States to join the consensus on the draft resolution.

18. **Ms. Shahar Ben-Ami** (Israel), noting that her delegation's position on the Durban Declaration and Programme of Action and the Review Conference was well known and had been explained on the occasion of a previous vote, requested a recorded vote on the draft resolution.

19. **Mr. Sammis** (United States of America), speaking in explanation of vote before the voting, said that the United States was deeply committed to fighting racism, racial discrimination, xenophobia and related intolerance at home and abroad. Its founding commitment to the principle that all people were created equal was manifested in both its legislation and policies to vigorously combat racist activities and attitudes, and in its ongoing work with the international community to fight prejudice based on race, nationality, ethnicity, religion, gender or sexual

orientation. The United States had recently presented an Action Plan to Combat Racial and Religious Discrimination and Intolerance during the session of the Ad Hoc Committee on Complementary Standards and would continue to work with other nations on practical measures to combat racial intolerance and discrimination.

20. The United States had not been able to support the Durban Review Conference Outcome Document because it endorsed the Durban Declaration and Programme of Action in toto and supported prohibitions on freedom of expression. It remained deeply concerned about speech that advocated national, racial or religious hatred, but did not agree that the best response was to restrict free speech. The best antidote were robust legal protections against discrimination and hate crimes, proactive outreach to racial and religious groups and the vigorous defence of freedom of expression. The United States regretted having to vote against the resolution, and hoped to find common ground on concrete approaches that both protected freedom of expression and combated all forms of racism and racial discrimination.

21. **Ms. Merchant** (Norway), speaking also on behalf of Iceland, said that Iceland and Norway were fully committed to the struggle against racism, racial discrimination, xenophobia and related intolerance. Norway had actively participated in the Durban Review Conference and had never doubted the need to join in the struggle against racism. Iceland and Norway had been sponsors of the draft decision on adoption of the outcome document of the Durban Review Conference. They had participated in good faith and constructively in negotiations on the resolution under consideration in the hope that they would once again be able to vote in favour, thereof, and deeply regretted that further negotiations had not been conducted. They hoped that in the future negotiations would be more transparent. For those reasons, Iceland and Norway would abstain in the vote on the draft resolution.

22. **Ms. Mårtensson** (Sweden), speaking on behalf of the European Union, said that the European Union wished to reiterate its full commitment to the fight against racism, racial discrimination, xenophobia and related intolerance, all of which contravened the values upon which the European Union was founded.

23. In Europe, organizations such as the Council of Europe and the Organization for Security and

Cooperation in Europe, together with a number of non-governmental organizations, contributed significantly to the fight against racism, racial discrimination, xenophobia and related intolerance through independent monitoring and reporting procedures, awareness-raising campaigns, research and support for legal reform. Within the European Union, the European Union Agency for Fundamental Rights supported, through data collection and analysis, the implementation of European Union legislation to fight racism and discrimination. The European Union was well aware of its own problems in that regard and was determined to address them through sustained action based on the International Convention on the Elimination of All Forms of Racial Discrimination. It called for universal ratification of that instrument.

24. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the activities carried out under his mandate played a major role in the fight against racism, racial discrimination, xenophobia and related intolerance at the international level. The European Union welcomed the approach of the Special Rapporteur, which attempted to anchor the debate in the relevant existing international legal framework.

25. The European Union had participated actively in the deliberations of the 2001 World Conference Against Racism and had agreed on its final document as a global agenda to eliminate racial discrimination all over the world. Since then, the member States of the European Union had focused their efforts on the full implementation of the Durban Declaration and Programme of Action. The European Union had also participated actively in preparations for the Durban Review, the outcome of which should serve as a basis for future work against racism, racial discrimination, xenophobia and related intolerance in the Third Committee, the Human Rights Council and all follow-up mechanisms for the fight against racism and related phenomena. However, paragraph 16 of the draft resolution clearly went against the discussions on streamlining of the Durban follow-up mechanisms.

26. With regard to the Ad Hoc Committee on the Elaboration of Complementary Standards, the European Union was not yet convinced of any normative gaps and the need for any additional international legal norms. It was important for the work of the Ad Hoc Committee to be based on consensus and be consistent with existing international norms.

The European Union had voted against the draft resolutions on that Committee's mandate and could not accept the positive references to that working group contained in the draft resolution under consideration. It was convinced that racism and related phenomena should be combated while respecting human rights and fundamental freedoms, notably freedom of expression, and would therefore have liked to see stronger language on the role that freedom of expression could play in combating racism, racial discrimination, xenophobia and related intolerance.

27. With regard to the upcoming commemoration of the tenth anniversary of the Durban Declaration and Programme of Action, the European Union recalled that a review conference had just taken place, and would have liked some more clarity on the budget implications of the planned commemoration.

28. Furthermore, the European Union believed that broader negotiations would have produced a better text, and reiterated its doubts about whether some parties were genuinely interested in maintaining the consensus on the Durban follow-up process and on the fight against racism. For all those reasons, the European Union could not lend its support to the draft resolution.

29. *A recorded vote was taken on draft resolution A/C.3/64/L.54/Rev.1.*

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique,

Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Australia, Canada, Czech Republic, Denmark, Germany, Israel, Italy, Marshall Islands, Netherlands, Palau, Poland, Romania, United States of America.

Abstaining:

Albania, Andorra, Armenia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Estonia, Finland, France, Georgia, Greece, Hungary, Iceland, Ireland, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, New Zealand, Norway, Papua New Guinea, Portugal, Republic of Korea, Republic of Moldova, Samoa, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Tonga, Ukraine, United Kingdom of Great Britain and Northern Ireland, Vanuatu.

30. *Draft resolution A/C.3/64/L.54/Rev.1 was adopted by 122 votes to 13, with 45 abstentions.¹*

31. **The Chairperson** suggested that the Committee should take note of the report of the Secretary-General entitled "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action" contained in document A/64/309.

¹ The delegation of Niger subsequently indicated that, had it been present, it would have voted in favour of the draft resolution.

Agenda item 69: Promotion and protection of human rights (continued)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (continued)

Draft resolution A/C.3/64/L.43/Rev.1: Protection of human rights and fundamental freedoms while countering terrorism

32. **The Chairperson** said that the draft resolution contained no programme budget implications.

33. **Mr. De León Huerta** (Mexico), introducing draft resolution A/C.3/64/L.43/Rev.1, said that, because of divergent views on the report of the Special Rapporteur, the sponsors had tried to make the draft resolution as neutral as possible, in particular paragraph 12, which mentioned the report without expressing an opinion thereon or referring to the report's recommendations or its more controversial elements. However, since all the proposals to refer to that report in a neutral manner had been rejected during negotiations, he wished to propose several revisions in a final attempt to reconcile divergent positions.

34. The fifth preambular paragraph should be moved and inserted immediately after the second preambular paragraph, and a seventeenth preambular paragraph that read as follows should be added: "Recalling also Human Rights Council resolution 6/28 of 14 December 2007, by which the Council decided to extend the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism:". In the English version, at the end of paragraph 6 (f) the word "those" should be replaced by "these". Paragraph 6 (j) should be revised to read "Insofar as such an act runs contrary to their obligations under international law, not to expose individuals to danger of cruel, inhuman or degrading treatment or punishment by way of return to another country." Finally, paragraph 18 should now be inserted immediately after paragraph 16; the word "policies" in that paragraph should be replaced with the word "programmes"; and the words "in accordance with relevant national legislation" should be inserted at the end of that paragraph. The goal of the draft resolution was to ensure that measures taken to combat terrorism were consistent with international obligations under international human rights law.

35. **Mr. Khane** (Secretary of the Committee) announced that Ukraine had become a sponsor of the draft resolution.

36. **Mr. Monteiro Cardoso** (Cape Verde) said that his delegation wished to be removed from the list of sponsors.

37. **Ms. Kondolo** (Zambia), speaking on behalf of the African Group, expressed concern at the attempt, in the report of the Special Rapporteur, to marginalize the relevant human rights issues that needed to be urgently addressed and to redefine gender. The Group regretted that the Special Rapporteur had departed from the Code of Conduct for Special Procedures Mandate-holders thereby exceeding his mandate, in order to promote the Yogyakarta Principles.

38. The fact that the reference to that report had been retained in the draft resolution forced the African Group to propose two amendments. The first amendment was to replace the words "the report of the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism" in paragraph 12 with the words "the previous work of the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism undertaken according to his mandate, based on Commission on Human Rights resolution 2005/80 of 21 April 2005 and Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007 and 6/28 of 14 December 2007." The second amendment was to change the wording of paragraph 19 to read as follows: "*Requests* the Special Rapporteur to continue to make recommendations within the context of his mandate, with regard to preventing, combating and redressing violations of human rights and fundamental freedoms in the context of countering terrorism:".

39. **Mr. De León Huerta** (Mexico) requested a recorded vote on each of the two proposed amendments.

40. **Mr. Khane** (Secretary of the Committee) said that a recorded vote would be taken on the first amendment to draft resolution A/C.3/64/L.43/Rev.1, concerning paragraph 12.

41. **Ms. Melon** (Argentina), speaking in explanation of vote before the voting, said that the sponsors of the draft resolution had actively sought to reconcile the

divergent opinions expressed by the various countries, in order to produce a balanced draft resolution. She recalled that reports of Special Rapporteurs were useful in terms of stimulating discussion; that it was vital to ensure the independence of the Special Rapporteur's work; and that the report in question had been reviewed and discussed by the Committee. Since her delegation considered it undesirable to impose a wording that did not reflect all the positions expressed during the negotiations, she invited Member States to vote in favour of maintaining the neutral language of paragraph 12, which made no mention of the content, conclusions and recommendations of the report.

42. **Mr. De León Huerta** (Mexico) urged the sponsors of the draft resolution, and all other delegations, to vote against the proposed amendment.

43. **Ms. Martensson** (Sweden), speaking on behalf of the European Union, said that the revised draft resolution referred only in very weak terms to the report of the Special Rapporteur. The inability to reach an agreement on the text was therefore regrettable. The European Union hoped that the various countries would not become more deeply divided and that delegations would defend the existing text by voting against the proposed amendment.

44. **Ms. Richardson** (New Zealand) said that, while her delegation did not necessarily endorse the report of the Special Rapporteur, it was not uncommon to take note of a report in order to accommodate divergent opinions. That was precisely the aim of the revised draft resolution introduced by Mexico. New Zealand, which supported the independence of the special procedures system, would vote against the proposed amendments, since it considered that they could create an unfortunate precedent.

45. **Ms. Halabi** (Syrian Arab Republic) said that her delegation would vote in favour of the amendment proposed by the Group of African States. The Special Rapporteur had departed from the Code of Conduct adopted by the Human Rights Council and the mandate conferred on him. He had tried to interpret the text that the Member States had adopted by consensus in line with his own ideas, which had nothing to do with international law and international instruments.

46. *A recorded vote was taken on the first amendment proposed by Zambia.*

In favour:

Algeria, Angola, Azerbaijan, Bahrain, Bangladesh, Belarus, Benin, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Cape Verde, China, Comoros, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Equatorial Guinea, Ethiopia, Gambia, Ghana, Guinea, Guinea-Bissau, Guyana, Haiti, Iran (Islamic Republic of), Jamaica, Jordan, Kenya, Kuwait, Kyrgyzstan, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Morocco, Mozambique, Namibia, Nicaragua, Niger, Nigeria, Oman, Pakistan, Qatar, Russian Federation, Rwanda, Saint Lucia, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Syrian Arab Republic, Tajikistan, Togo, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Venezuela (Bolivarian Republic of), Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Netherlands, New Zealand, Norway, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu.

Abstaining:

Antigua and Barbuda, Bahamas, Barbados, Belize, Bhutan, Bolivia (Plurinational State of), Brazil, Congo, Fiji, Grenada, India, Indonesia, Nepal, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Singapore, Sri Lanka,

Suriname, Thailand, Tonga, Trinidad and Tobago, Uzbekistan.

47. *The first proposed amendment to draft resolution A/C.3/64/L.43/Rev.1 was adopted by 77 votes to 73, with 23 abstentions.²*

48. **The Chairperson** said that a recorded vote had been requested.

49. **Mr. Khane** (Secretary of the Committee) said that a recorded vote would be taken on the second amendment to draft resolution A/C.3/64/L.43/Rev.1 proposed by Zambia on behalf of the Group of African States. The proposal was to delete the words "to continue" from paragraph 19.

50. **Ms. Kondolo** (Zambia), speaking on behalf of the Group of African States, said that the Group was disappointed in the report of the Special Rapporteur and considered that he had exceeded his mandate in making his recommendations. It had therefore proposed a second amendment in order to ensure that future recommendations of the Special Rapporteur were made in the context of his mandate.

51. **Ms. Flood-Beaubrun** (Saint Lucia), speaking in explanation of vote before the voting, said it was regrettable that the draft resolution in question would not be adopted by consensus as in previous years. At the time of the introduction of the report (A/64/211), her delegation had expressed its opposition to the incorporation of the Special Rapporteur's personal ideas about what a gender perspective meant in the context of his mandate. It had lamented the fact that the Special Rapporteur had exceeded his mandate, unilaterally attempted to change the definition of a universally accepted term, based his definition on premises that did not exist in international human rights law and made undefined terms the main focus of his work.

52. She reiterated her delegation's request for the Special Rapporteur to provide real guidance on counter-terrorism measures from a gender perspective. The Special Rapporteur's departure from his mandate had consequences for all Member States and for victims of gender-based discrimination in the context of counter-terrorism efforts. The United Nations sought

to ensure that the terms used in its work were understood and agreed upon by all Member States and that outcome documents reflected varying perspectives. Accepting the Special Rapporteur's definition of gender without serious discussion would undermine those efforts.

53. Her delegation, recognizing the significance of the Special Rapporteur's work, was awaiting a true report from him on the protection of fundamental freedoms while countering terrorism within the context of his mandate. It would vote in favour of the draft amendment proposed by Zambia.

54. *A recorded vote was taken on the second amendment proposed by Zambia.*

In favour:

Algeria, Angola, Azerbaijan, Bahrain, Bangladesh, Belarus, Benin, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Cape Verde, China, Comoros, Congo, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Equatorial Guinea, Ethiopia, Fiji, Gambia, Ghana, Guinea, Guinea-Bissau, Guyana, Haiti, Iran (Islamic Republic of), Jamaica, Jordan, Kenya, Kuwait, Kyrgyzstan, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Morocco, Mozambique, Namibia, Nicaragua, Niger, Nigeria, Oman, Pakistan, Qatar, Russian Federation, Rwanda, Saint Lucia, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sudan, Swaziland, Syrian Arab Republic, Tajikistan, Togo, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Venezuela (Bolivarian Republic of), Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands,

² The delegation of the Congo informed the Committee that, although the voting record showed an abstention for her country, it had voted in favour of the draft resolution.

Mexico, Micronesia (Federated States of), Monaco, Montenegro, Netherlands, New Zealand, Norway, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu.

Abstaining:

Antigua and Barbuda, Bahamas, Barbados, Belize, Bhutan, Bolivia (Plurinational State of), Brazil, Grenada, India, Indonesia, Nepal, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Sri Lanka, Suriname, Thailand, Tonga, Trinidad and Tobago, Uzbekistan.

55. *The second proposed amendment to draft resolution A/C.3/64/L.43/Rev.1 was adopted by 81 votes to 73, with 20 abstentions.*

56. **Ms. Méndez Romero** (Bolivarian Republic of Venezuela) said that her delegation, as a sponsor of the draft resolution, believed that the failure to mention the report of the Special Rapporteur could set a dangerous precedent. However, it had voted in favour of the two amendments proposed by the Group of African States, since it considered that the Special Rapporteur had exceeded his mandate. It was regrettable that those discussions had eclipsed the substantive debate on the draft resolution. She appreciated the efforts that Mexico had made during the negotiations to accommodate the different positions taken on the Special Rapporteur's report.

57. **Mr. Tarar** (Pakistan) said it was regrettable that the Special Rapporteur had departed from his mandate and that his controversial report had prevented a consensus from being reached on that important draft resolution. His delegation supported the amendments proposed by the Group of African States and hoped that, in the future, Special Rapporteurs would respect intergovernmentally agreed mandates.

58. **Mr. Khane** (Secretary of the Committee) announced that the following delegations had joined the sponsors: Angola, Azerbaijan, Benin, Cameroon, Cape Verde, Comoros, Congo, Côte d'Ivoire, Dominica, Egypt, Equatorial Guinea, Gambia, Ghana,

Guinea, Guinea-Bissau, Kenya, Mali, Nigeria, Senegal, Somalia, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.

59. **Mr. Preston** (United Kingdom) said that his delegation wished to withdraw from the list of sponsors of the revised draft resolution as amended.

60. **The Chairperson** said that a recorded vote would be taken on draft resolution A/C.3/64/L.43/Rev.1, as orally revised and amended.

61. **Ms. Kondolo** (Zambia) said that the Group of African States thanked those countries that had voted in favour of the proposed amendments and was pleased that the draft enjoyed the support of a majority of Member States. Her delegation would vote in favour of the revised draft resolution, as amended.

62. **Mr. De León Huerta** (Mexico), speaking on behalf of the sponsors, said that they were disappointed that the draft resolution had been amended. They would, however, vote in favour of the draft resolution as amended, since the protection of human rights and fundamental freedoms while countering terrorism was a very important issue. Furthermore, the sponsors did not consider the draft resolution, as amended, to be a motion of no confidence in the Special Rapporteur, whose work continued to promote respect for human rights. They therefore encouraged all delegations to vote in favour of the draft resolution.

63. *A recorded vote was taken on draft resolution A/C.3/64/L.43/Rev.1, as orally amended and revised.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea,

Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

None.

Abstaining:

Saint Kitts and Nevis.

64. *Draft resolution A/C.3/64/L.43/Rev.1, as orally amended and revised, was adopted by 181 votes to none, with 1 abstention.*

65. **Ms. Pérez Álvarez** (Cuba) said that her delegation had voted in favour of the amendments proposed by the African Group because it had felt that all human rights special procedures mandate holders had to comply with their Code of Conduct. However, that did not mean that Cuba agreed to give to the Human Rights Council powers or prerogatives beyond the ambit of the United Nations Charter.

66. **Ms. Mårtensson** (Sweden), speaking on behalf of the European Union, said it was regrettable that a consensus could not be reached on the draft resolution, but thanked Mexico, its main sponsor. The text adopted did not accurately reflect the position of the European Union, which felt that special procedures mandate holders should be able to discharge their mandates in complete independence. Special procedures were meant to encourage discussion among States, in order to enhance the protection of human rights for all, and the European Union hoped that those procedures would be maintained.

67. **Mr. De León Huerta** (Mexico) said it was regrettable that a consensus could not be reached on such a vital question and reiterated his delegation's commitment to the activities of the Human Rights Council. A great deal of impartiality was required to protect human rights throughout the world. He hoped that, in 2010, discussions with the different groups and countries would help generate a consensus, without any delegation having to abandon its principles or convictions.

Draft resolution A/C.3/64/L.44/Rev.1: International Year for People of African Descent

68. **The Chairperson** said that the draft resolution contained no programme budget implications.

69. **Ms. Blum** (Colombia) introduced draft resolution A/C.3/64/L.44/Rev.1, entitled "International Year for People of African Descent" on behalf of the sponsors. The text was the result of a compromise among the delegations that had participated in the informal consultations on the initial draft. The International Year, to begin on 1 January 2011, would increase awareness among States and the international community of the need to promote policies and actions to ensure the full enjoyment by people of African descent of all their rights.

70. The legal framework for the International Year was recalled in the preamble while its objectives were described in paragraph 1. The text also requested the Secretary-General to submit to the General Assembly at its sixty-fifth session a report containing a draft programme of activities for the International Year. She hoped that the draft resolution would be adopted by consensus, and noted that Belize and the United States of America had become sponsors of the draft resolution.

71. *Draft resolution A/C.3/64/L.44/Rev.1 was adopted without a vote.*

72. **Ms. Blum** (Colombia) welcomed the adoption without a vote of draft resolution A/C.3/64/L.44/Rev.1 concerning the International Year for People of African Descent. She hoped that it would help to promote the exercise by people of African descent of their rights and combat discrimination against them. People of African descent accounted for a significant proportion of the population of the States that had sponsored the draft resolution. Those States were committed to the adoption of special measures to encourage the participation of those people both as actors in and beneficiaries of development.

73. **Ms. Mårtensson** (Sweden), speaking on behalf of the European Union, said that the European Union had been pleased to join the consensus even though it had some reservations about the utility of international years. However, she hoped that the International Year for People of African Descent would help those people enjoy all their rights. The sponsors had allayed the European Union's concerns by ensuring that the International Year concerned all human rights and would not have any programme budget implications.

74. **Mr. Babadoudou** (Benin) said that his delegation had joined the consensus despite its initial criticisms. He rejected the marginalization and misery-driven clichés traditionally associated with black people as a consequence of slavery and colonization. Each government had to ensure that its people fully enjoyed their human rights. Through negotiations, it had been possible to reach a consensus, which Benin was joining. His delegation viewed the initiative as an appeal from the sponsors to the international community to perhaps help them to resolve their national problems.

Draft resolution A/C.3/64/L.49: Human Rights and Cultural Diversity

75. **Mr. Khane** (Secretary of the Committee) announced that China had become a sponsor of the draft resolution. Presenting a statement of the programme budget implications of the draft resolution in accordance with rule 153 of the rules of procedure of the General Assembly, he said that the additional provisions made in the proposed programme budget for the biennium 2010-2011 in response to the request contained in resolution 10/23 of the Human Rights Council would help to implement the activities of the

new special procedures procedure entitled "independent expert in the field of cultural rights". The resource implications to support the preparation of a report as mandated in the draft resolution would therefore be met within the provisions of the proposed programme budget. If adopted, the draft resolution would not have any budget implications for the biennium 2010-2011.

76. **Ms. Pérez Álvarez** (Cuba) introducing the draft resolution for the first time on behalf of the 118 member countries of the Movement of Non-Aligned Countries, pursuant to the commitment made by their leaders to contribute to the implementation of the Tehran Declaration and Programme of Action on Human Rights and Cultural Diversity, said that the draft resolution would subsequently be presented every two years.

77. Cultural diversity contributed to the enrichment of humankind and must be respected throughout the world. Following many informal and bilateral consultations, the Movement of Non-Aligned Countries had endeavoured to propose a draft resolution formulated in fairly neutral terms, even using some of the language from texts presented recently by European States, in the hope of obtaining the support of all Member States.

78. Regrettably, despite the openness of the Movement of Non-Aligned Countries, it had not been possible to adopt that vital draft resolution by consensus because of the rigid stance of a few countries that insisted that their point of view should prevail. The sponsors had originally planned to submit a text that reflected revisions agreed during the negotiations, but had decided, given the likelihood of the draft resolution being put to a vote, to submit the initial version of the draft to the Committee. She nevertheless urged all the member countries of the Non-Aligned Movement and other countries to adopt the draft resolution.

79. Paragraph 16 had been revised; the word "invite" should be inserted after the words "High Commissioner and".

80. **Mr. Khane** (Secretary of the Committee) announced that El Salvador had become a sponsor of the draft resolution.

81. **Ms. Mårtensson** (Sweden), speaking on behalf of the European Union; the candidate countries Croatia,

the former Yugoslav Republic of Macedonia and Turkey, the stabilization and association process countries Albania and Montenegro; and, in addition, Australia, Iceland, Liechtenstein, New Zealand, Norway, Republic of Moldova, Switzerland and Ukraine, said that the European Union, which had participated in the negotiations on the text in a constructive manner, attached great importance to cultural diversity, which could only be defended if human rights and fundamental freedoms, in particular freedom of expression and information, were guaranteed. All States had a duty to ensure that those rights were respected. Human rights were universal and could not be judged based on any cultural relativism. That was why the European Union had proposed that a reference should be made in the text to one of the fundamental principles of the UNESCO Universal Declaration on Cultural Diversity: "No one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope." Regrettably, that proposal had been rejected.

82. The European Union was also concerned about the frequent reference in the text to "universally accepted human rights", which gave the impression that some human rights were not universally accepted. The European Union regretted that that wording had not been changed, as had been the case during the negotiations on Human Rights Council draft resolution 10/23. In addition, the European Union disapproved of the reference, in the preamble, to a meeting held in 2007 outside the United Nations framework and attended by only some Member States. Expressing regret that the text presented did not reflect any of the European Union's proposals, she requested a recorded vote on the draft resolution and urged Member States to vote against it.

83. **Mr. Attiya** (Egypt), speaking on behalf of the Movement of Non-Aligned Countries, said that respect for cultural diversity, understanding among peoples, and protection of human rights were fundamental principles which were, moreover, closely linked to economic development, peace and security, particularly in the current global context. Hence, it went without saying that any effort to promote tolerance and respect for diversity would not infringe upon human rights guaranteed by international law. Human rights were indivisible and interdependent and the international community had to consider them as such. While cultural and historical differences could not be ignored,

all States had a duty to protect all human rights and fundamental freedoms.

84. At their fifteenth summit in Sharm el-Sheikh, the Heads of State and Government of the Movement of Non-Aligned Countries had reaffirmed the importance of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, and had called upon all Member States to become parties thereto. They had also advocated the implementation of the principles contained in the Tehran Declaration and Programme of Action through the rapid adoption of appropriate instruments by the United Nations. The Movement of Non-Aligned Countries, which had done its utmost to take the concerns of all States into account, was deeply disappointed that those States requesting a recorded vote had not acknowledged those efforts. He called on all States to vote in favour of that important draft resolution.

85. **Ms. Mitchell** (Canada), speaking in explanation of vote before the voting, expressed regret that the draft resolution had not taken into account her delegation's suggestions, which had been designed to ensure that cultural diversity was not invoked in an effort to limit the scope of universal human rights guaranteed by international law. Consequently, Canada would not be able to vote in favour of the draft resolution.

86. **Mr. Sammis** (United States of America), recalling the provisions of the Charter of the United Nations, said that governments had a responsibility to cooperate in ensuring the exercise of the rights and freedoms contained in international human rights law. His delegation had worked to find language adequately specifying that the concept of cultural diversity should be anchored to international human rights law, and could not be used to legitimize human rights abuses. Regrettably, that point was not set forth clearly in the draft text. His delegation would therefore vote against the draft resolution. The United States of America shared the concerns raised by the representatives of Canada and Sweden.

87. *A recorded vote was taken on draft resolution A/C.3/64/L.49.*

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia (Plurinational State of),

Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, United Arab Emirates, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, New Zealand, Norway, Palau, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Armenia, Fiji, Japan, Timor-Leste.

88. *Draft resolution A/C.3/64/L.49 was adopted by 125 votes to 50, with 4 abstentions.*

89. **Ms. Halabi** (Syrian Arab Republic) said it was regrettable that the group of Western European and other States had insisted on putting the draft resolution to a vote. The non-aligned States had made every effort to take into account the concerns that had been expressed, notably by the delegation of Sweden on behalf of the European Union. Those States were bent on eliminating the cultural rights of other peoples and had shown a lack of tolerance towards other cultures.

90. **Ms. Medel** (Nicaragua) said it was regrettable that the draft resolution had not been adopted without a vote, as in the past. States that claimed to be defenders of human rights should discard their policy of double standards and commit themselves to the promotion and protection of all human rights without any selectivity.

91. **Mr. González** (Costa Rica) said that his delegation endorsed the use of the phrase "universal human rights" in paragraph 11. Costa Rica was an ardent defender of cultural diversity and pluralism, which should not, however, open the door to cultural relativism. Human rights were universal, indivisible, interdependent and interrelated.

92. **Ms. Sapag** (Chile) said her delegation, which was of the view that human rights were universal, indivisible and interdependent, categorically rejected any interpretation that tended to limit those rights and had therefore voted in favour of the draft resolution.

93. **Ms. Méndez Romero** (Bolivarian Republic of Venezuela) said it was regrettable that, despite the flexibility of the non-aligned States, certain members of the European Union had rejected that important draft resolution, which had been adopted without a vote two years before. Her delegation failed to understand how certain States could speak of tolerance, peace and the promotion of human rights while at the same time hindering dialogue and understanding between peoples.

94. **The Chairperson** declared that the Committee had concluded its consideration of draft resolution A/C.3/64/L.49.

95. He suggested that before concluding the consideration of agenda item 69 as a whole, the Committee should, in accordance with General Assembly decision 55/488, take note of the following documents: Report of the Committee against Torture

on the work of its forty-first and forty-second sessions (A/64/44); Report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture (A/64/264); Report of the Secretary-General on the status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (A/64/306 and Corr.1); Report of the United Nations High Commissioner for Human Rights on the equitable geographical distribution in the membership of the human rights treaty bodies (A/64/212); Note by the Secretary-General on effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (A/64/276); Report of the Secretary-General on strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity (A/64/175); Report of the Secretary-General on the protection of migrants (A/64/188); Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/64/216); Note by the Secretary-General on the independence of judges and lawyers (A/64/181); Note by the Secretary-General on extrajudicial, summary or arbitrary executions (A/64/187); Note by the Secretary-General on the human rights of migrants (A/64/213 and Corr.1); Note by the Secretary-General on the right to adequate housing (A/64/255); Note by the Secretary-General on the Right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/64/272); Report of the United Nations Special Rapporteur on the right to education (A/64/273); Report of the independent expert on the question of human rights and extreme poverty (A/64/279); Note by the Secretary-General on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (A/64/289 and Corr.1); Report of the United Nations High Commissioner for Human Rights (A/64/36).

96. *It was so decided.*

Agenda item 118: Revitalization of the work of the General Assembly

Tentative programme of work of the Third Committee for the sixty-fifth session of the General Assembly, submitted by the Chairman of the Committee (A/C.3/64/L.64)

97. **The Chairperson** said he took it that the Committee wished to adopt the draft programme of work and transmit it to the President of the General Assembly for consideration by the Assembly in plenary session.

98. *It was so decided.*

99. **The Chairperson** declared that the Committee had completed its work for the main part of the sixty-fourth session.

The meeting rose at 1.25 p.m.